PATENT Attorney Docket No.: E4919-00003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Nowak et al.** Examiner: **M. Jackson**

Serial No.: **09/178,329** Group Art Unit: **1794**

Filed: **October 23, 1998** Confirmation No.: **4360**

For: **COMPOSITE WRAP MATERIAL**

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Commissioner for Patents
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Sir:

APPEAL BRIEF

Pursuant to 37 CFR §41.37, Appellants hereby submit this appeal brief. The appeal brief is being timely submitted under 37 CFR §41.37(a).

Respectfully Submitted,

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I. Real Party in Interest

The real party in interest is Coating Excellence International LLC, present owner of the application and the invention described therein.

II. Related Appeals and Interferences

Related U.S. patent application serial no. 10/094,060 is on appeal, awaiting decision by the Board.

III. Status of Claims

Claims 25, 26, 28-35 and 37-59 are pending in the present application. Claims 1-24, 27 and 36 are cancelled; claims 25, 26, 28-35 and 37-59 stand rejected. Claims 25, 26, 28-35 and 37-59 are involved in the Appeal.

Claims 25, 34, 43 and 51 are the only independent claims.

IV. Status of Amendments

No amendments to the claims are made in this Appeal Brief.

V. Summary of Claimed Subject Matter

The present invention relates to composite wrap materials for use as a protective covering in a variety of applications, and methods of making the composite wrap materials. More particularly, the invention relates to composite wrap materials used for packaging paper products. 1:5-8 (References are to the application as filed, by page and line number).

Reams of paper for copy machines, computers, and other applications, are found in retail stores packaged in various composite or non-composite wrap materials. In addition to keeping the paper contained in the package, the wrap provides a moisture barrier that prevents or delays the absorption of moisture by the wrapped paper. The wrap also presents the paper contained inside in an appealing manner to the consumer. 1:11-16.

Conventional commercial wrappers include paper/polyethylene/paper laminates, paper/wax/paper laminates, polyethylene-coated papers, wax-coated papers, and transparent

polymer films. A drawback of paper-based wrap materials is their low burst strength. Often, such packages tend to break open before reaching the consumer because the wrapper is not strong enough to hold the paper upon repeated handling and stacking on store shelves. This not only ruins the product by causing an unsightly appearance on a store shelf, but can damage the paper which can cause copiers and printers to become jammed. 1:17-22; 2:1-2.

A disadvantage of film-based wrap materials that do not contain paper is that they are difficult to run on conventional packaging equipment during the wrapping process and require costly modifications to a paper packaging line. In addition, film-based wrap materials have a low burst strength, and lack the structural support of the heavier paper structures. 2:3-7.

Another disadvantage of known wraps is that they process either like paper or film, depending on their major component. While providing a good dimensionally stable print surface, paper does not provide the gloss or the ink holdout of film structures. Film, while providing gloss and ink holdout, is more flexible and much more difficult to handle than paper due to its stretch properties. 2:8-12.

As store distribution of such paper products has increased, paper companies have wished to improve the graphics on the packaging for greater shelf appeal, and increase the strength of the wrapper to dependably contain a ream of paper until opened by the consumer. 2:13-16.

A problem to be solved by the present invention is to provide a composite wrap material that can be used to wrap a ream of paper or other material to provide a wrapped package having high burst strength. 2:17-21.

Additional problems to be solved by the present invention are to provide:

(1) a composite wrap material that will provide a barrier against moisture absorption by the wrapped contents;

(2) a composite wrap material having the fold characteristics of paper; and

(3) a composite wrap material that can have a high gloss print surface or a standard paper print surface as desired. 2:17-23; 3:1-2.

Claims 25, 34, 43 and 51 are the only independent claims. Claim 25 is as follows:

25. A wrapped ream of paper, comprising:

a laminated composite wrap material including a first layer of paper having an inner surface and an outer surface; a second layer of polymer film material having an outer surface and an inner surface; and an adhesive layer between the inner surfaces of said first and second layers;

wherein said laminated composite wrap material wraps said ream of paper, and the inner surface of said second layer of polymer film material is printed before lamination.

Support for this claim is found in the specification as filed at e.g., page 3, lines 8-19; page 4, lines 21-23; and page 6, lines 21-22 – page 7, lines 1-2.

Claim 34 is as follows:

34. A wrapped ream of paper, comprising:

a laminated composite wrap material including a first layer of paper having an inner surface and an outer surface; a second layer of polymer film material having an outer surface and an inner surface; and an adhesive layer between the inner surfaces of said first and second layers;

wherein said laminated composite wrap material wraps said ream of paper, and the inner surface of said first layer of paper is printed before lamination.

Support for this claim is found in the specification as filed at e.g., page 3, lines 8-19; page 4, lines 21-23; and page 6, lines 21-22 – page 7, lines 1-2.

Claim 43 is as follows:

43. A wrapped ream of paper, consisting of:

a laminated composite wrap material including a first layer of paper having an inner surface and an outer surface; a second layer of polymer film material having an outer surface and an inner surface; and an adhesive layer between the inner surfaces of said first and second layers;

wherein said laminated composite wrap material wraps said ream of paper, and the inner surface of said second layer of polymer film material is printed before lamination.

Support for this claim is found in the specification as filed at e.g., page 3, lines 8-19; page 4, lines 21-23; and page 6, lines 21-22 – page 7, lines 1-2.

Claim 51 is as follows:

51. A wrapped ream of paper, consisting of:

a laminated composite wrap material including a first layer of paper having an inner surface and an outer surface; a second layer of polymer film material having an outer surface and an inner surface; and an adhesive layer between the inner surfaces of said first and second layers;

wherein said laminated composite wrap material wraps said ream of paper, and the inner surface of said first layer of paper is printed before lamination.

Support for this claim is found in the specification as filed at e.g., page 3, lines 8-19; page 4, lines 21-23; and page 6, lines 21-22 – page 7, lines 1-2.

VI. Grounds of Rejection to be Reviewed on Appeal

Whether claims 25, 26, 28-35 and 37-59 were properly rejected under 35 U.S.C. §103(a) as being unpatentable over the admitted prior art in view of Wittosch et al. and further in view of Finestone et al.

VII. Argument

1. Rejection of claims 25, 26, 28-35 and 37-59 under 35 U.S.C. §103(a) as being unpatentable over the admitted prior art in view of Wittosch et al. and further in view of Finestone et al.: There is no teaching or suggestion in the references, alone or in combination, of a wrapped ream of paper as disclosed and presently claimed, wherein the

inner surfaces of either the first layer of paper or the second layer of polymer film material are printed before lamination.

Claims 25, 26, 28-35 and 37-59 were rejected under 35 U.S.C. §103(a) as being unpatentable over the admitted prior art in view of Wittosch et al. and further in view of Finestone et al. Note that the identification in the claims of the layers as having inner and outer surfaces is not new matter; such aspects are necessarily present in the specification of the present application. One of ordinary skill in the art would recognize that such aspects are inherent in Applicants' disclosure. Tronzo v. Biomet, Inc., 156 F.3d 1154, 1159 (Fed. Cir. 1998).

Support for such claims is found throughout the specification of the present application. For instance, paragraph [0023] of the present application is as follows:

[0023] In use, one side of the wrap material is placed next to the paper or other material being wrapped. The other side of the wrap material may be printed upon using known printing techniques, or the paper layer 15 or film layer 20 can be printed before lamination, and then laminated so the print shows through the film layer. (emphasis added)

The claims submitted with this Appeal Brief derive 35 U.S.C. §112, paragraph 1 support from this disclosure, e.g., claim 25 states: *"...the inner surface of said second layer of polymer film material is printed before lamination."*

Note that there is no teaching or suggestion in the references, alone or in combination, of a composite wrap material as disclosed and presently claimed, wherein the inner surfaces of either the first layer of paper or the second layer of polymer film material are printed before lamination.

The Board's attention is directed to Wittosch et al. at column 3, lines 63-67, as follows: *"In other applications, the coating may be applied to the opposite side of a clay coated substrate and used as a label, where the clay coated side provides a printable surface and the invention coating provides barrier characteristics to the resulting container."* (emphasis added) As

taught in Wittosch et al., printing on the surface of a formed laminate is the conventional approach in the art. Indeed, Appellants have proceeded contrary to the teachings of the prior art in their invention as disclosed and presently claimed.

The admitted prior art similarly provides no teaching or suggestion of Appellants' presently claimed invention; furthermore, Finestone et al. at column 2, lines 15-18 states the following: *"B. The paper facing of the laminate sheeting has a high affinity for standard printing inks, so that the products made therefrom can readily be printed and colored."* (emphasis added) This is yet another example of the state of the prior art, in which printing follows lamination; Appellants respectfully reiterate that they have proceeded contrary to the state of the art in their invention as disclosed and presently claimed. Thus, the above rejections are overcome. Appellants therefore request that the rejections under 35 U.S.C. §103(a) be withdrawn.

VIII. CLAIMS APPENDIX

1-24. (cancelled)

25. (previously presented) A wrapped ream of paper, comprising:

a laminated composite wrap material including a first layer of paper having an inner surface and an outer surface; a second layer of polymer film material having an outer surface and an inner surface; and an adhesive layer between the inner surfaces of said first and second layers;

wherein said laminated composite wrap material wraps said ream of paper, and the inner surface of said second layer of polymer film material is printed before lamination.

26. (previously presented) The wrapped ream of paper as recited in claim 25, wherein said second layer of polymer film material is selected from the group consisting of polyethylene, polypropylene and polyester.

27. (cancelled)

28. (previously presented) The wrapped ream of paper as recited in claim 25, wherein said adhesive layer comprises a polymer material selected from the group consisting of polyethylene, polypropylene, polyvinylidene chloride, polyethylene acrylic acid, polyester, polyisobutylene, nylon, polymethylpentene, and ethylene vinyl acetate, and copolymers thereof.

29. (previously presented) The wrapped ream of paper as recited in claim 25, wherein the adhesive layer comprises a wax/polymer blend.

30. (previously presented) The wrapped ream of paper as recited in claim 25, wherein the adhesive layer comprises a hot-melt adhesive.

31. (previously presented) The wrapped ream of paper as recited in claim 25, wherein one or more of the layers are pigmented.

32. (previously presented) The wrapped ream of paper as recited in claim 25, wherein the surfaces of the first or second layer comprise a metallized material.

33. (previously presented) The wrapped ream of paper as recited in claim 25, wherein said first and second layers are integrally and continuously bonded together by said adhesive layer.

34. (previously presented) A wrapped ream of paper, comprising:

a laminated composite wrap material including a first layer of paper having an inner surface and an outer surface; a second layer of polymer film material having an outer surface and an inner surface; and an adhesive layer between the inner surfaces of said first and second layers;

wherein said laminated composite wrap material wraps said ream of paper, and the inner surface of said first layer of paper is printed before lamination.

35. (previously presented) The wrapped ream of paper as recited in claim 34, wherein said second layer of polymer film material is selected from the group consisting of polyethylene, polypropylene and polyester.

36. (cancelled)

37. (previously presented) The wrapped ream of paper as recited in claim 34, wherein said adhesive layer comprises a polymer material selected from the group consisting of polyethylene, polypropylene, polyvinylidene chloride, polyethylene acrylic acid, polyester, polyisobutylene, nylon, polymethylpentene, and ethylene vinyl acetate, and copolymers thereof.

38. (previously presented) The wrapped ream of paper as recited in claim 34, wherein the adhesive layer comprises a wax/polymer blend.

39. (previously presented) The wrapped ream of paper as recited in claim 34, wherein the adhesive layer comprises a hot-melt adhesive.

40. (previously presented) The wrapped ream of paper as recited in claim 34, wherein one or more of the layers are pigmented.

41. (previously presented) The wrapped ream of paper as recited in claim 34, wherein the surfaces of the first or second layer comprise a metallized material.

42. (previously presented) The wrapped ream of paper as recited in claim 34, wherein said first and second layers are integrally and continuously bonded together by said adhesive layer.

43. (previously presented) A wrapped ream of paper, consisting of:

a laminated composite wrap material including a first layer of paper having an inner surface and an outer surface; a second layer of polymer film material having an outer surface and an inner surface; and an adhesive layer between the inner surfaces of said first and second layers;

wherein said laminated composite wrap material wraps said ream of paper, and the inner surface of said second layer of polymer film material is printed before lamination.

44. (previously presented) The wrapped ream of paper as recited in claim 43, wherein said second layer of polymer film material is selected from the group consisting of polyethylene, polypropylene and polyester.

45. (previously presented) The wrapped ream of paper as recited in claim 43, wherein said adhesive layer comprises a polymer material selected from the group consisting of polyethylene, polypropylene, polyvinylidene chloride, polyethylene acrylic acid, polyester, polyisobutylene, nylon, polymethylpentene, and ethylene vinyl acetate, and copolymers thereof.

46. (previously presented) The wrapped ream of paper as recited in claim 43, wherein the adhesive layer comprises a wax/polymer blend.

47. (previously presented) The wrapped ream of paper as recited in claim 43, wherein the adhesive layer comprises a hot-melt adhesive.

48. (previously presented) The wrapped ream of paper as recited in claim 43, wherein one or more of the layers are pigmented.

49. (previously presented) The wrapped ream of paper as recited in claim 43, wherein the surfaces of the first or second layer comprise a metallized material.

50. (previously presented) The wrapped ream of paper as recited in claim 43, wherein said first and second layers are integrally and continuously bonded together by said adhesive layer.

51. (previously presented) A wrapped ream of paper, consisting of:
a laminated composite wrap material including a first layer of paper having an inner surface and an outer surface; a second layer of polymer film material having an outer surface and an inner surface; and an adhesive layer between the inner surfaces of said first and second layers; wherein said laminated composite wrap material wraps said ream of paper, and the inner surface of said first layer of paper is printed before lamination.

52. (previously presented) The wrapped ream of paper as recited in claim 51, wherein said second layer of polymer film material is selected from the group consisting of polyethylene, polypropylene and polyester.

53. (previously presented) The wrapped ream of paper as recited in claim 51, wherein said adhesive layer comprises a polymer material selected from the group consisting of polyethylene, polypropylene, polyvinylidene chloride, polyethylene acrylic acid, polyester, polyisobutylene, nylon, polymethylpentene, and ethylene vinyl acetate, and copolymers thereof.

54. (previously presented) The wrapped ream of paper as recited in claim 51, wherein the adhesive layer comprises a wax/polymer blend.

55. (previously presented) The wrapped ream of paper as recited in claim 51, wherein the adhesive layer comprises a hot-melt adhesive.

56. (previously presented) The wrapped ream of paper as recited in claim 51, wherein one or more of the layers are pigmented.

57. (previously presented) The wrapped ream of paper as recited in claim 51, wherein the surfaces of the first or second layer comprise a metallized material.

59. (previously presented) The wrapped ream of paper as recited in claim 51, wherein said first and second layers are integrally and continuously bonded together by said adhesive layer.

IX. EVIDENCE APPENDIX

No additional evidence is attached herewith.

X. RELATED PROCEEDINGS APPENDIX

As set forth above, related U.S. patent application serial no. 10/094,060 is currently on appeal, awaiting decision by the Board. Thus, there are no decisions to be submitted.